

**CALENDAR ITEM  
C08**

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S 6

10/14/14  
PRC 8540.1  
V. Caldwell

**TERMINATION AND ISSUANCE OF A GENERAL LEASE – COMMERCIAL  
AND PROTECTIVE STRUCTURE USE AND ENDORSEMENT OF A SUBLEASE**

**LESSEE:**

Captain's Table Hotel, LLC

**APPLICANT/SUBLESSOR:**

Urban Commons Riverside Blvd., LLC  
3334 E. Coast Highway, Suite 350  
Corona Del Mar, California 92625

**SUBLESSEE:** Brighton Management LLC  
1901 Main, Suite 150  
Irvine, California 92614

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the Sacramento River, adjacent to 4800 Riverside Boulevard,  
in the city of Sacramento, Sacramento County.

**AUTHORIZED USE:**

**LEASE:** Continued use, maintenance, and operation of an existing commercial marina, known as The Westin, Sacramento, consisting of 1,032 lineal feet of dockage with monthly and hourly rental berths, an accommodation dock, 25 steel pilings, two gangways, two stair access/utility towers, four elevators, 20 utility pedestals, debris deflector with six 2-pile dolphins, and bank protection previously authorized by the Commission; and use and maintenance of 20 existing utility towers, two elevators, and two spiral staircases not previously authorized by the Commission.

**SUBLEASE:** Operation and maintenance of the commercial dock facilities.

**LEASE TERM:**

**LEASE:** 20 years beginning December 12, 2013.

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SUBLEASE: Three years beginning September 1, 2014 with two five-year renewal options.

**CONSIDERATION:**

**1,032 Lineal Feet of Dockage with 29 Monthly Rental Berths, an Accommodation Dock, 25 Steel Pilings, Two Gangways, Two Elevators, Two Spiral Staircases, 20 Utility Towers, Debris Deflector with Six 2-Pile Dolphins:** Initial Base Rent in the amount of \$9,984 per year, with an annual Consumer Price Index adjustment, and the State reserving the right to adjust the rent at the 10-year anniversary, as provided in the lease.

**Bank Protection:** The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

**SPECIFIC LEASE PROVISIONS:**

Insurance:

Liability insurance in an amount no less than \$2,000,000.

Surety:

Surety bond or other security in the amount of \$25,000.

Other:

1. The lease contains provisions that: The Lessee must implement the Commission's "Best Management Practices for Marina Owners/Operators" and encourage implementation of the Commission's "Best Management Practices for Berth Holders and Boaters", including additional Best Management Practices (BMPs) the Commission subsequently deems appropriate for either of the above categories. The Lessee shall provide the Commission, on the first anniversary of the lease and on every third anniversary thereafter, a report on compliance with all BMPs.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns the upland adjoining the lease premises.
2. On August 17, 2004, the Commission authorized a 20-year General Lease - Commercial Use to Captain's Table Hotel, LLC for the operation, use and maintenance of a commercial marina known at the time as Le Rivage. That lease expires on August 16, 2024.
3. On May 9, 2012, a Trustee's Deed was recorded due to foreclosure in the name of OneWest Bank, FSB. On December 12, 2013, the property was transferred to a new owner, Urban Commons Riverside Blvd., LLC. The Applicant is now applying for a new General Lease – Commercial and

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Protective Structure Use and approval of a sublease. Because the existing Lease has been abandoned due to foreclosure, staff recommends termination of the existing lease.

4. The Applicant has delegated the day-to-day operations of The Westin, Sacramento through an operating agreement to Brighton Management LLC. Staff has reviewed the operating agreement and confirmed all terms of the agreement are consistent with the terms of the lease and therefore recommends approval of a sublease.
5. The 20 existing utility towers, two elevators, and two spiral staircases were installed in 2004/2005 and not previously authorized by the Commission. Staff recommends including these facilities as authorized improvements under the lease.
6. The bank protection will mutually benefit both the public and the Applicant. The bank of the Sacramento River will have the additional protection for the river channel from wave action provided at no cost to the public.
7. **Termination of Lease:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

8. **Issuance of Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

9. **Approval of Sublease:** The staff recommends that the Commission find that the subject sublease approval does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with CEQA.

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Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15060, subdivision (c)(3), and 15378.

10. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Lease Termination:**

Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**Issuance of Lease:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

**Approval of Sublease:** Find that the subject sublease approval is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**SIGNIFICANT LANDS INVENTORY FINDING:**

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

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**AUTHORIZATION:**

1. Authorize termination of Lease No. PRC 8540.1, a General Lease – Commercial Use, effective December 11, 2013, issued to Captain’s Table Hotel, Ltd.
  
2. Authorize issuance of a General Lease – Commercial and Protective Structure Use to Urban Commons Riverside Blvd., LLC, beginning December 12, 2013, for a term of 20 years, for the continued use, maintenance, and operation of an Existing commercial marina, known as The Westin, Sacramento, consisting of 1,032 lineal feet of dockage with monthly and hourly rental berths, an accommodation dock, 25 steel pilings, two gangways, two stair access/utility towers, four elevators, 20 utility pedestals, debris deflector with six 2-pile dolphins, and bank protection previously authorized by the Commission; use and maintenance of 20 existing utility towers, two elevators, and two spiral staircases not previously authorized by the Commission; as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration for the 1,032 lineal feet of dockage with rental berths, accommodation dock, 25 steel pilings, two gangways, two stair access/utility towers, four elevators, 20 utility pedestals, and debris deflector with six 2-pile dolphins: Initial Base Rent in the amount of \$9,984 per year, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; consideration for the bank protection: the public use and benefit with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State’s best interest; liability insurance in an amount no less than \$2,000,000 per occurrence, and surety in the amount of \$25,000.
  
3. Approve by endorsement a sublease from Urban Commons Riverside Blvd., LLC to Brighton Management LLC, effective September 1, 2014 and ending August 31, 2017 with two five-year renewal options.

## LAND DESCRIPTION

Two (2) parcels of tide and submerged land lying in the bed of the Sacramento River, said parcels being adjacent to Parcel 1 as described in that certain grant deed recorded as Instrument Number 199911180136 dated November 18, 1999, Sacramento County Recorder's Office, also being adjacent to Section 23, Township 8 North, Range 4 East, M.D.M., Sacramento County, California, more particularly described as follows:

## PARCEL 1

COMMENCING at a 1-inch iron pipe tagged RCE 9903, designated PP #317, which bears North 51° 21' West 137.12 feet from a 1-inch iron pipe tagged RCE 9903, designated PP #318 as both pipes are shown on Drawing No. A-6170.16 entitled "Appraisal Map", revised 07/67, prepared by California Department of Transportation, District 03, said 1-inch iron pipe designated PP #318 bears North 51° 21' West 631.43 feet from the most easterly corner of "Rio Acres" as said "Rio Acres" is shown on the official plat filed in Book 18 of Maps, Map No. 31, Sacramento County Recorder's Office, said most easterly corner also being the southeast corner of that certain tract of land shown on the official "Plat of Estate of Thomas Edwards located near Sutterville", filed in Book 3 of Maps, Map No.36, Sacramento County Recorder's Office; thence from said point of commencement, North 51° 21' West 46.93 feet along the most northerly line of said "Rio Acres" to the most southeasterly point of the lands recorded in the Grant Deed conveyed by John H. Shaw and Marie M. Shaw, his wife, to Charles M. Lovett and Dorothy Lovett, as tenants in common, on June 20, 1956, and recorded in Book 3104, Page 457, Official Records of Sacramento County; thence North 51° 21' West along the most northerly line of said "Rio Acres", and the southerly line of the above-mentioned lands of Lovett, 70 feet, more or less to a point, on the left bank of the Sacramento River also being the POINT OF BEGINNING; thence from said point of beginning along the prolongation of said line, North 51° 21' West 170.38 feet to a point in the Sacramento River, thence along the following four courses:

1. North 57° 48' 27" East 520.01 feet;
2. North 43° 28' 18" East 719.89 feet;
3. North 35° 44' 08" East 39.51 feet to a point herein referred to as "POINT A";
4. South 60° 59' 53" East 130.92 feet to the intersection of the left bank of the Sacramento River with the northeasterly boundary of the lands conveyed to Charles M. Lovett and Dorothy Lovett by deed recorded in Book 3225, Page 470, Official Records of Sacramento County; thence downstream along said bank of the Sacramento River, the following fourteen courses:

1. South 42° 33' 48" West 142.60 feet;
2. South 32° 46' 43" West 66.58 feet;
3. South 61° 32' 57" West 36.66 feet;
4. South 39° 13' 31" West 168.55 feet;

5. South 39° 48' 25" West 171.42 feet;
6. South 57° 41' 00" West 42.92 feet;
7. South 41° 26' 03" West 89.87 feet;
8. South 58° 39' 06" West 29.43 feet;
9. South 51° 25' 39" West 173.93 feet;
10. South 55° 15' 19" West 138.31 feet;
11. South 51° 54' 48" West 71.12 feet;
12. South 56° 38' 53" West 98.21 feet;
13. South 75° 58' 37" West 23.88 feet;
14. South 36° 04' 31" West 46.01 feet, more or less to the POINT OF BEGINNING.

EXCEPTING THERFROM any portions of land lying landward of the Ordinary High Water Mark of the Sacramento River.

Bearings used in this description are based on Parcel 1, described in that grant deed recorded as Instrument Number 199911180136.

#### PARCEL 2

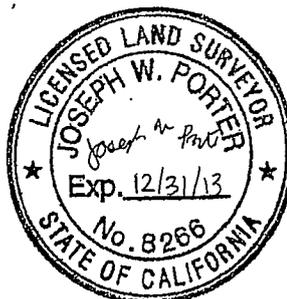
BEGINNING at the above described "POINT A"; thence from said point of beginning North 35° 44' 08" East 57.18 feet; thence North 89° 57' 30" East 215.93 to a point on the left bank of said river; thence along said bank, South 50° 46' 38" West 174.03 feet to the intersection of the left bank of the Sacramento River with the northeasterly boundary of the lands conveyed to Charles M. Lovett and Dorothy Lovett by deed recorded in Book 3225, Page 470, Official Records of Sacramento County; thence leaving said bank, North 60° 59' 53" West 130.92 feet to the POINT OF BEGINNING.

EXCEPTING THERFROM any portions of land lying landward of the Ordinary High Water Mark of the Sacramento River.

Bearings used in this description are based on Parcel 1, described in that grant deed recorded as Instrument Number 199911180136.

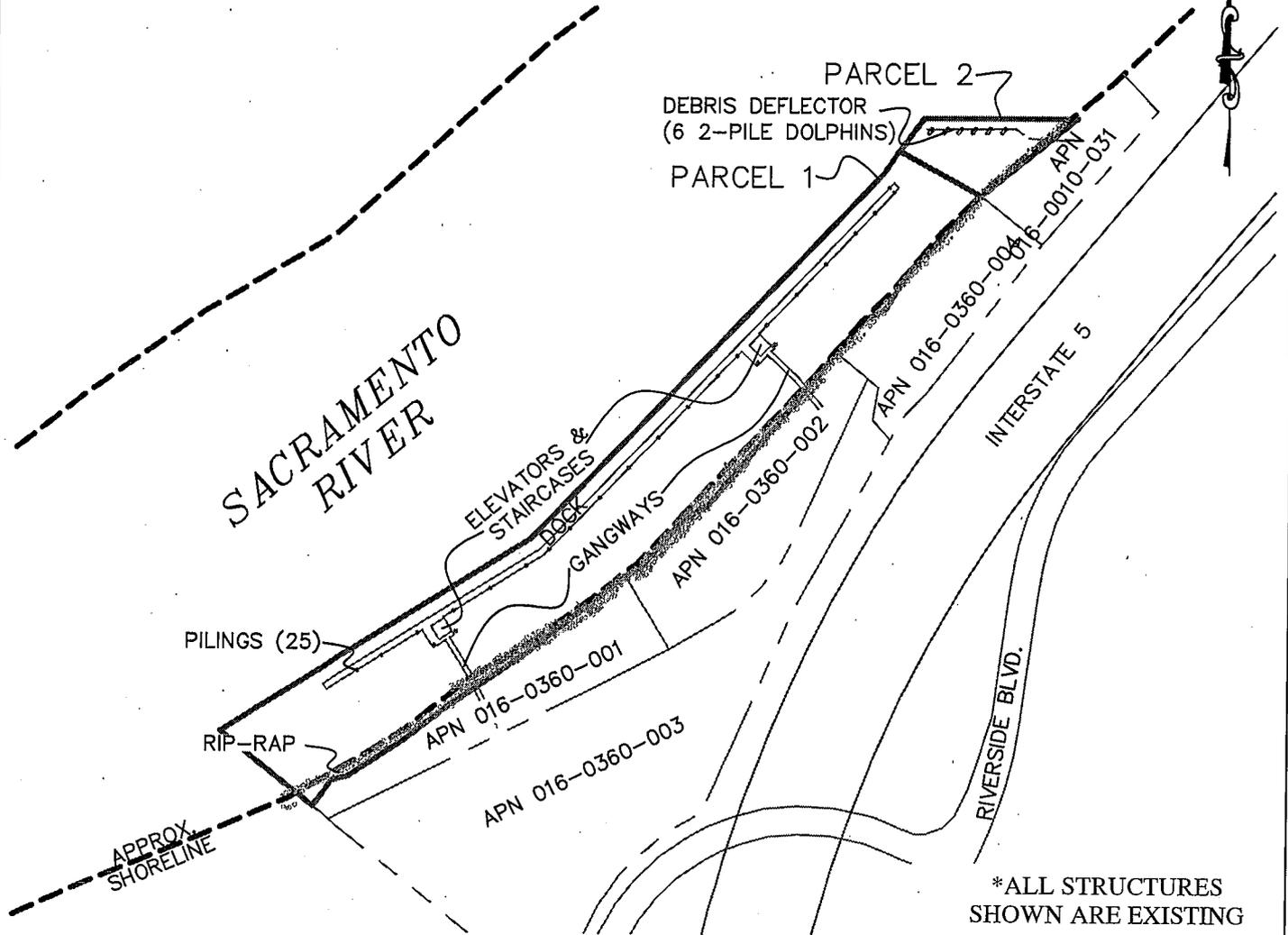
#### END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit 6/03/2013. Original description prepared by Boundary Unit on 9/09/2004 as found in "PRC 8540 SLC Lease Document".



NO SCALE

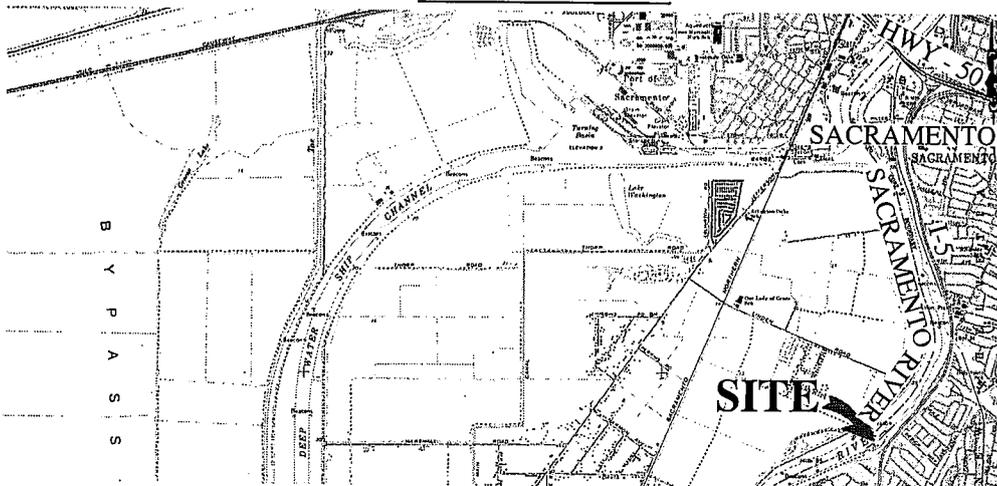
# SITE



4800 Riverside Blvd., Sacramento

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit B

PRC 8540.1  
 URBAN COMMONS RIVERSIDE  
 BLVD., LLC APN  
 016-0360-001,002,003,004 &  
 APN 016-0010-031  
 GENERAL LEASE -  
 COMMERCIAL USE &  
 PROTECTIVE STRUCTURE USE  
 SACRAMENTO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

MJF 9/12/14